

FILED by ELECTRONIC	CF D.C.
FEB 16, 2011	
STEVEN M. LARIMORE CLERK U.S. DIST. CT. S.D. OF FLA. - MIAMI	

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 10-60195-CR-DIMITROULEAS(s)
18 U.S.C. § 371

UNITED STATES OF AMERICA

v.

STANLEY GLADSTONE,

Defendant.

SUPERSEDING INFORMATION
18 U.S.C. § 371 (Conspiracy)

The United States Attorney charges that:

GENERAL ALLEGATIONS

At various times relevant to this Superseding Information:

1. Candy King of America, Inc. ("Candy King") was a Florida corporation incorporated on November 12, 2002. Candy King's principal place of business was in Broward County at 284 South University Drive, Plantation, FL 33324, from November 2002 until approximately May 2004, and in Broward County, at 7890 Peters Road, Suite G100, Plantation, FL 33324, from approximately May 2004 until approximately July 2006.
2. Candy King engaged in the sale of business opportunities to the public. Some potential purchasers were told that for a minimum investment of approximately \$16,000 they would receive candy vending machines, along with assistance in establishing, maintaining, and operating a vending business. According to Candy King's sales pitch, Candy King could refer purchasers of Candy King's business opportunity to expert locating companies that could place the candy vending machines in

profitable, high-traffic locations. Some of the purchasers, known as “distributors,” could supposedly earn substantial profits when members of the public bought items from the vending machines.

3. Candy King mainly sold two types of candy vending machines, the Candy King Triple bulk vending machine and the Altoids vending machine. The Candy King Triple machine had three candy canisters and could be used to dispense a wide range of bulk candy products. Candy King began offering distributorships featuring the Candy King Triple machines in early 2003 for an introductory price of approximately \$800 per machine, including an initial supply of candy product. Candy King began selling machines that dispensed Altoids chewing gum in approximately September 2004. Distributorships featuring Altoids machines were offered to customers for an introductory price of \$1,600 per machine, including an initial supply of Altoids gum. Some machine prices were negotiated and sold for a lesser amount.

4. Candy King used various types of sales representatives, including “fronters,” “closers,” “loaders,” and “BFD” salesmen. A “fronter” spoke to potential purchasers when the potential purchaser initially contacted Candy King in response to an advertisement. A “closer” subsequently spoke to potential purchasers to follow up on the initial conversation with the fronter and attempt to finalize the sale. If the closer was unable to finalize a sale, a “BFD” salesman sometimes called the potential purchaser at a later time to try to bring the deal “back from the dead.” Once some purchasers sent money to Candy King to purchase the business opportunity, a Candy King “loader” contacted the purchaser to induce him or her to purchase more vending machines, usually at a discounted price.

5. Some Candy King salespeople corroborated their sales claims by sometimes referring potential purchasers to individuals who sometimes claimed to own and operate profitable Candy King business opportunities.

6. Defendant **STANLEY GLADSTONE** was the founder and President of Candy King. **GLADSTONE** misrepresented the Candy King business opportunity to some potential purchasers by, among other things, overstating the amount of profits that Candy King distributors could expect to make and by falsely stating that distributors could receive quality assistance in placing, operating, and maintaining their machines.

COUNT 1
Conspiracy
(18 U.S.C. § 371)

1. Paragraphs 1 through 6 of the General Allegations section of this Superseding Information are re-alleged and incorporated by reference as though fully set forth herein.

2. From in or around March 2003 through in or around July 2006, in Broward County, in the Southern District of Florida, and elsewhere, the defendant, **STANLEY GLADSTONE**, did willfully, that is, with the intent to further the objects of the conspiracy, and knowingly combine, conspire, confederate and agree with others, known and unknown to the United States Attorney, to commit certain offenses against the United States, that is:

(a) to knowingly and with intent to defraud, devise and intend to devise, a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing that they were false and fraudulent when made, and deposit and cause to be deposited matter to be sent and delivered by U.S. mail and private and commercial interstate carrier, and did knowingly cause to be delivered certain matter by U.S. mail and private and commercial interstate carrier, according to the directions thereon, for the purpose of executing the scheme and artifice, in violation of Title 18, United States Code, Section 1341;

(b) to knowingly and with intent to defraud, devise and intend to devise, a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing that they were false and fraudulent when made, and transmitting and causing to be transmitted certain wire communications in interstate commerce, for the purpose of executing the scheme, in violation of Title 18, United States Code, Section 1343.

PURPOSE OF THE CONSPIRACY

3. It was the purpose of the conspiracy for **STANLEY GLADSTONE** and his co-conspirators to unlawfully enrich themselves by obtaining money from some potential business opportunity purchasers by sometimes making materially false representations, and omitting to state and concealing material facts concerning, among other things, the profits that could reasonably be expected from the purchase of a Candy King distributorship, the authenticity of Candy King references, the number of distributors that were in or that could be in various geographic areas, and the services distributors could receive placing, operating, and maintaining their Candy King machines.

MANNER AND MEANS OF THE CONSPIRACY

The manner and means by which **STANLEY GLADSTONE** and his co-conspirators sought to accomplish the objects and purpose of the conspiracy included, among others, the following:

4. Candy King advertised its business opportunity through Internet advertising. Candy King's advertisements, created and approved by **STANLEY GLADSTONE**, stated, among other things, the profits that could be earned by purchasing a Candy King business opportunity. Through Internet links, Candy King's advertisements enabled potential customers to submit contact information to Candy King's sales personnel.

5. Individuals who responded to Candy King's Internet advertisements were contacted by sales personnel known as "fronters" who were Candy King's first point of contact with potential purchasers. As described below, **STANLEY GLADSTONE** and his co-conspirators instructed fronters on what to say to some potential purchasers during the initial telephone sales pitch. The "fronter" provided a brief overview of the business opportunity and gathered information about some of the potential purchasers. Some Candy King fronters claimed to potential purchasers that Candy King had a limited number of distributorships available in the potential purchaser's geographic area. The fronter informed the potential purchaser that Candy King had developed a full service, turnkey business opportunity. Some fronters claimed that Candy King and the locating companies recommended by Candy King provided everything needed to start up a business and be successful, including securing profitable locations. If the fronter determined that a potential purchaser was truly interested in purchasing a Candy King business opportunity, and had sufficient funds, the potential purchaser was transferred to another Candy King salesperson known as a "closer."

6. In an initial telephone conversation with a prospective customer, the closer generally identified himself as a Route Coordinator who was responsible for setting up distributors for a particular geographic area. In truth, the closers did not specialize in any particular area of the country, did not limit the number of distributors in any geographic area, and took calls from any place in the United States. The closer and potential purchaser scheduled an appointment to speak at a time after the potential purchaser received the Candy King brochure and promotional CD, described more fully below. **STANLEY GLADSTONE** and his co-conspirators instructed some Candy King closers to make numerous materially false statements to some potential purchasers about the Candy King business opportunity, including that locating companies recommended by Candy King could secure

profitable, high-traffic locations for Candy King distributors to place their machines, and that Candy King business opportunities earned substantial profits resulting, on average, in a full return of the initial investment for investors in one year or sooner.

7. Using DHL Express, FedEx and other private and commercial interstate carriers, Candy King sent potential purchasers a professional-looking promotional folder and CD containing Candy King's promotional video, brochure, purchase agreement and related materials created and approved by **STANLEY GLADSTONE**. The promotional folder contained a prepaid FedEx label for the potential purchaser to deliver to Candy King a signed purchase agreement and payment.

8. After the potential purchaser received Candy King's promotional folder and CD, the Candy King closer made an extended sales pitch to the potential purchaser by telephone. During some of these sales pitches, Candy King closers made numerous materially false statements to potential purchasers about the Candy King business opportunity, including, among other things, expected profits, the services provided to distributors, the number of distributors in a potential purchaser's geographic area, and that Candy King could refer purchasers to locating companies, recommended by Candy King, that could secure high-traffic locations for Candy King distributors to place their machines. Some closers further stated that the locating companies would have locations for the purchaser's Candy King machines pre-screened, pre-qualified, and pre-sold, with the owners of each location waiting for the Candy King machines. **STANLEY GLADSTONE** and his co-conspirators allowed or instructed Candy King closers to make numerous materially false statements to some potential purchasers about the Candy King business opportunity.

9. **STANLEY GLADSTONE** and his co-conspirators provided some potential purchasers with the names of some individual references who falsely claimed to have purchased and

had success operating Candy King distributorships and who vouched for the support and assistance that Candy King provided. During the time period Candy King was in business, these phony references spoke to a number of potential purchasers of a Candy King business opportunity. Among these references was a close relative of **GLADSTONE**. As described below, **GLADSTONE** and his co-conspirators, directly and indirectly, instructed references on what to say to potential purchasers. Among other things, some references were told to tell some prospective purchasers, falsely, that Candy King machines emptied on average once per month, or faster; that the machines made over \$100 per month on average; that Candy King machines performed better than other machines; that the references made their money back in one year, or sooner; that Candy King provided excellent customer service; and that the references were so successful that they ordered or planned to order more machines. Not all purchasers spoke with references.

10. **STANLEY GLADSTONE** and his co-conspirators used a transaction called "Back-from-the-Dead," or "BFD," to attempt to resurrect any deal that the closer failed to close. If the closer was unsuccessful in closing the deal, a BFD salesman called the potential purchaser back within a few days or weeks in an attempt to resurrect the deal. BFD salesmen sometimes falsely represented that another person had cancelled a large order of machines for personal reasons and that, as a result, Candy King could offer the machines to the purchaser for a substantially reduced price.

11. Once purchasers agreed to make a purchase, **STANLEY GLADSTONE** and his co-conspirators instructed the purchasers to fill out a purchase order and send it back to Candy King, along with payment for the business opportunity. Payments were typically made by purchasers in one of three ways: by sending the customer's check or credit card information to Candy King via

commercial interstate carrier or the United States Postal Service, by sending the customer's credit card information to Candy King via facsimile, or by bank wire to Candy King's bank account.

12. **STANLEY GLADSTONE** and his co-conspirators used a transaction called a "load" to induce some individuals who purchased the Candy King business opportunity to purchase more machines. Once a distributor sent in his or her money to Candy King for an initial purchase, Candy King loaders would contact some distributors within a few days or weeks for the purpose of soliciting an additional investment. The loaders sometimes falsely claimed that another person had cancelled a large order of machines for personal reasons and that, as a result, Candy King could offer these machines to the purchaser for a substantially reduced rate. **GLADSTONE** and his co-conspirators allowed loaders to make false statements, as described above, to potential purchasers.

13. **STANLEY GLADSTONE** and his co-conspirators allowed customer service representatives to reassure some distributors of Candy King's intentions to help secure viable locations and to make distributors' business opportunities successful. These assurances lulled some distributors into a false sense of security, postponed inquiries and complaints, and made the transaction less suspect.

14. **STANLEY GLADSTONE** and his co-conspirators concealed from some potential purchasers that there were a number of Candy King distributors who were dissatisfied with their earnings and the service and support that Candy King provided by, among other things: (1) giving refunds to certain, dissatisfied distributors on the condition that they not discuss the nature of their respective grievances with anyone, including potential purchasers of Candy King's business opportunities, and (2) giving refunds to certain, dissatisfied distributors on condition that they remove Internet postings that were critical of Candy King.

15. To fraudulently induce some individuals to purchase Candy King business opportunities, **STANLEY GLADSTONE** and his co-conspirators made, and caused others to make, numerous materially false statements to some potential investors and concealed and omitted to state material facts, including, among others, the following:

Materially False Statements

- (a) That Candy King machines emptied on average every month, or sooner, when, in truth and in fact, the time frame for a machine to empty was far longer;
- (b) That Candy King machines earned an average profit of approximately \$100 or more per month;
- (c) That the average distributor earned his or her money back in one year or sooner, when, in truth and in fact, the average time frame was far longer;
- (d) That Candy King would only sell business opportunities to a limited number of people in a geographic area and that Candy King frequently sold out a particular territory in a short time, when, in truth and in fact, the only limitation to the willingness of Candy King to accept a person as a distributor was whether he or she had enough money to pay the purchase price;
- (e) That no other distributors resided in or had machines placed in a potential purchaser's geographic area of interest;
- (f) That location specialists to which Candy King referred potential purchasers would secure high traffic, high volume, profitable locations for distributors to place their vending machines in the distributor's respective local area, when, in truth and in fact, the location specialists were frequently unsuccessful at providing distributors with locations, much less quality, high traffic locations;

(g) That the location companies recommended by Candy King had already found locations that would be available to the distributor as soon as he or she paid the investment amount to Candy King, when, in truth and in fact, the location companies did not have locations ready for the distributor in advance of being paid;

(h) That a close relative of **STANLEY GLADSTONE** and another Candy King reference were bona-fide Candy King business opportunity owners, when in truth and in fact, they had not purchased a Candy King business opportunity;

(i) That Candy King references, including a close relative of **STANLEY GLADSTONE**, were successful as Candy King business opportunity owners, and had purchased or intended to purchase additional machines from Candy King, when, in truth and in fact, their machines generated substantially less revenue than what they told potential purchasers, and they did not purchase and did not intend to purchase Candy King machines in the future;

Omissions and Concealment of Material Facts

(j) That a frequently used reference was a close relative of **STANLEY GLADSTONE** and was not in the same position as the typical Candy King investor in that he did not pay any money for his machines;

(k) That some Candy King references were paid by Candy King in one period of time on a per deal basis for each completed sale, and later for each reference call they took;

(l) That there were a number of Candy King distributors who were dissatisfied with their earnings and the service and support that Candy King provided;

(m) That Candy King, at various times, had difficulty obtaining Altoids gum for its distributors; and

(n) That the price for future supplies of Candy King candy and gum product was understated in Candy King advertisements, promotional materials and websites, as Candy King failed to state that there would be delivery charges for candy and gum reorders.

OVERT ACTS

In furtherance of the conspiracy and to achieve the objects and purpose thereof, the **STANLEY GLADSTONE** and his co-conspirators committed, and caused to be committed, in the Southern District of Florida and elsewhere, the following overt acts, among others:

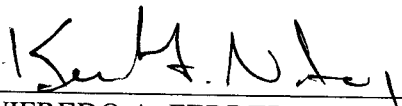
1. On or about April 16, 2003, **STANLEY GLADSTONE**, in the Southern District of Florida, had an interstate telephone conversation with F.G. in Oklahoma, a potential purchaser of a Candy King business opportunity, and gave F.G. the name and telephone numbers of a co-conspirator as a bona-fide Candy King business opportunity owner, and gave F.G. the name and number of a close relative as a bona-fide Candy King business opportunity owner, without stating his relationship.

2. On or about October 12, 2004, **STANLEY GLADSTONE**, in the Southern District of Florida, had an in-person conversation with K.C., a potential purchaser of a Candy King business opportunity, and falsely represented that a locating company recommended by Candy King could place his machines in profitable, high-traffic locations.

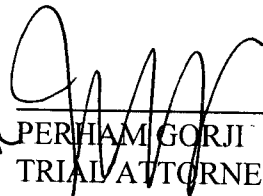
3. On or about August 5, 2005, **STANLEY GLADSTONE** had a telephone conversation from the Southern District of Florida with R.H. in Florida, a potential purchaser of a Candy King business opportunity, and falsely represented that no other Candy King distributors were located in R.H.'s geographic area, and that there would be no difficulty in obtaining bulk Altoids gum in the future.

4. On or about August 30, 2005, **STANLEY GLADSTONE**, in the Southern District of Florida, had telephone conversation with D.A. in Florida, a potential purchaser of a Candy King business opportunity, and falsely represented that no other distributor's were located in D.A.'s geographic area, that a locating company recommended by Candy King could place her machines in profitable, high-traffic locations, and that Altoids machines emptied once per month on average.

All in violation of Title 18, United States Code, Section 371.



WIFREDO A. FERRER
UNITED STATES ATTORNEY



PERHAM GORJI
TRIAL ATTORNEY
U.S. DEPARTMENT OF JUSTICE

UNITED STATES OF AMERICA

CASE NO. 10-60195-Cr-Dimitrouleas(s)

v.

STANLEY GLADSTONE,

Defendant.

CERTIFICATE OF TRIAL ATTORNEY*

Superseding Case Information:

Court Division: (Select One)

☒ Miami ☐ Key West
FTL ☐ WPB ☐ FTP

New Defendant(s)
Number of New Defendants
Total number of counts

Yes ☐ No ☒
1

I do hereby certify that:

1. I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.

2. I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.

3. Interpreter: (Yes or No) No
List language and/or dialect _____

4. This case will take 0 days for the parties to try.

5. Please check appropriate category and type of offense listed below:

(Check only one)

(Check only one)

I	0 to 5 days	<u>0</u>	Petty	_____
II	6 to 10 days	_____	Minor	_____
III	11 to 20 days	_____	Misdem.	_____
IV	21 to 60 days	_____	Felony	<u>X</u>
V	61 days and over	_____		

6. Has this case been previously filed in this District Court? (Yes or No) Yes

If yes:

Judge: Dimitrouleas

Case No. 10-60195-Cr-Dimitrouleas

(Attach copy of dispositive order)

Has a complaint been filed in this matter? (Yes or No) No

If yes:

Magistrate Case No. _____

Related Miscellaneous numbers: _____

Defendant(s) in federal custody as of _____

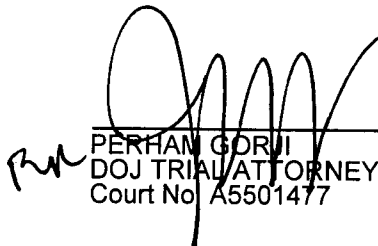
Defendant(s) in state custody as of _____

Rule 20 from the _____ District of _____

Is this a potential death penalty case? (Yes or No) No

7. Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to October 14, 2003? ☐ Yes ☒ No

8. Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to September 1, 2007? ☐ Yes ☒ No


PERHAM GORJI
DOJ TRIAL ATTORNEY
Court No. A5501477

*Penalty Sheet(s) attached

REV 4/8/08

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: STANLEY GLADSTONE

Case No: 10-60195-CR-DIMITROULEAS(s)

Count #: 1

Conspiracy to commit mail and wire fraud

18 U.S.C. § 371

* Max. Penalty: 5 years' imprisonment

Count #:

*Max. Penalty:

Count #:

*Max. Penalty:

Count #:

*Max. Penalty:

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**